

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 21, 2000

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Blease, Acting Presiding Justice; Davis, Associate Justice; Raye, Associate Justice; and Conrad, Bailiff. Calendar called.

C029790 THE PEOPLE v. NETTLES

Cause called. Charles M. Bonneau argued for appellant. Charles V. Fennessey, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:04 a.m., court recessed. At 10:06 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Davis, and Associate Justice Hull.

C032764 WAGONER et al., etc., v. CORNETO et al.

Cause called. J.D. Zink argued for appellants. Michael B. Read argued for respondents. Cause submitted.

At 10:19 a.m., court recessed. At 10:23 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Davis, and Associate Justice Callahan.

C026443 THE PEOPLE v. LAND

Cause called. Barry Morris, court appointed counsel, argued for appellant. Alan B. Ashby, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:55 a.m., court recessed. At 10:58 a.m., court reconvened with Presiding Justice Scotland, Associate Justice Blease, and Associate Justice Morrison.

C030622 In re the Marriage of PHIPPEN

Cause called. Jay-Allen Eisen argued for appellant with additional citations. E.F. Cash-Dudley argued for respondent. Cause submitted.

At 11:28 a.m., court recessed. At 11:30 a.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Nicholson, and Associate Justice Morrison.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 21, 2000 Continued

C029418 FISHER et al. v. PAINTER et al.

Cause called. Brent A. Painter argued for himself in pro per as appellant. Edward C. Koons argued for respondents. No appearance was made on behalf of appellant Betty Painter. Cause submitted.

At 11:58 a.m., court recessed. At 2:02 p.m., court reconvened with Presiding Justice Scotland, Associate Justice Sims, and Associate Justice Davis.

C030585 THE PEOPLE v. A BLUE CHEVY ASTRO etc., et al.; MAGHONEY et al.

Cause called. John R. Cogorno argued for real party in interest. Kevin M. Maloney argued for respondent with additional citations. Cause submitted.

At 2:38 p.m., court recessed until Tuesday, August 22, 2000, at 9:30 a.m.

C029659 FRIENDS OF MAMMOTH et al. v. TOWN OF MAMMOTH LAKES
C031043 REDEVELOPMENT AGENCY and MAMMOTH MOUNTAIN SKI AREA
et al. (Certified for Publication)

There is no change in the judgment. The petition for rehearing is denied.
BLEASE, Acting P.J.
Sims, J.
Nicholson, J.

C031626 THE PEOPLE v. STOUT (Not for Publication)

It is ordered that the opinion filed herein on July 26, 2000, be modified as follows:

■ ■ ■

There is no change in the judgment. Defendant's petition for rehearing is denied.

SCOTLAND, P.J.
Nicholson, J.
Callahan, J.

**C034803 In re FLOYD U. III et al.; HUMAN SERVICES AGENCY v. FLOYD U.
JR., et al. (Not for Publication)**

The orders of the juvenile court are affirmed.

RAYE, J.

We concur: Blease, Acting P.J.
 Nicholson, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 21, 2000 Continued

- C031601 THE PEOPLE v. VIGIL (Not for Publication)**
The judgment of the trial court is affirmed in all respects.
NICHOLSON, J.
We concur: Blease, Acting P.J.
 Raye, J.
- C034611 THE PEOPLE v. GARCIA (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We concur: Blease, Acting P.J.
 Morrison, J.
- C032677 THE PEOPLE v. LOZA (Not for Publication)**
The restitution order is reversed and remanded for further proceedings.
In all other respects, the judgment and sentencing are affirmed.
NICHOLSON, J.
We concur: Scotland, P.J.
 Raye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 22, 2000

At 9:30 a.m., the court met in the Library & Courts Building for a continuation of its court calendar session. Present: Blease, Acting Presiding Justice; Sims, Associate Justice; Nicholson, Associate Justice; and Rios, Bailiff. Calendar called.

C031274 THE PEOPLE v. PEAY

Cause called. Deborah Tuttelman, court appointed counsel, argued for appellant with additional citations. Maureen A. Daly, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:59 a.m., court recessed. At 10:01 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison, and Associate Justice Kolkey.

C032208 WARNER v. JENISON

Cause called. Kenny N. Giffard argued for appellant. Sharon L. Lapin argued for respondent. Cause submitted.

At 10:21 a.m., court recessed. At 10:23 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Sims, and Associate Justice Kolkey.

C033584 GERKENSMEYER v. BURDICK et al.

Cause called. Christopher D. Burdick argued for appellants. Stephen C. Haas argued for respondent. Cause submitted.

At 11:00 a.m., court recessed. At 11:03 a.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Callahan, and Associate Justice Kolkey.

C030937 PARRETT v. MIZE

Cause called. Barbara A. Parrett argued for herself in pro per as appellant. Kenneth E. Bacon argued for respondent. Cause submitted.

At 11:30 a.m., court recessed. At 11:36 a.m., court reconvened with Acting Presiding Justice Blease, Associate Justice Sims, and Associate Justice Callahan.

C029047 TARPIN v. DINMOOR GROUP

Cause called. Robin L. Stewart argued for appellant. Marian M. Johnston argued for respondent. Cause submitted.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 22, 2000 Continued

At 12:09 p.m., court recessed until Wednesday, August 23, 2000, at 9:30 a.m.

- C032041 RICE v. CALIFORNIA STATE PERSONNEL BOARD; CALIFORNIA DEPARTMENT OF CORRECTIONS (Not for Publication)**
The judgment is reversed with directions to the trial court to enter a judgment denying Rice's petition in its entirety. Rice shall pay the Department's costs of appeal. (Cal. Rules of Court, rule 26(a).)
MORRISON, J.
We concur: Scotland, P.J.
 Hull, J.
- C031577 THE PEOPLE v. SIMMONS (Not for Publication)**
The judgment and the sentence are affirmed.
BLEASE, Acting P.J.
We concur: Sims, J.
 Hull, J.
- C033551 THE PEOPLE v. KINCHELA (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We concur: Hull, J.
 Kolkey, J.
- C033252 THE PEOPLE v. PATINO (Not for Publication)**
The judgment (order of probation) is affirmed.
SIMS, Acting P.J.
We concur: Callahan, J.
 Hull, J.
- C033324 THE PEOPLE v. PATTERSON (Not for Publication)**
The judgment is affirmed. The trial court is directed to correct the abstract of judgment to delete the concurrent 16 month sentence imposed on count II and to forward a certified copy of the corrected abstract to the Department of Corrections.
RAYE, J.
We concur: Blease, Acting P.J.
 Nicholson, J.
- C034852 THE PEOPLE v. ASEFA (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Blease, Acting P.J.
 Raye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 22, 2000 Continued

- C034062 In re GARY S.; THE PEOPLE v. GARY S. (Not for Publication)**
The matter is remanded to juvenile court to determine whether the Warren E. Thornton Youth Center is a secure facility within the meaning of Welfare and Institutions Code section 726. If the court finds that the youth center is a secure facility, the court shall determine precisely the minor's maximum period of confinement. The court also shall determine whether the minor is entitled to precommitment credits. In all other respects, the judgment (orders of wardship and commitment) is affirmed.
CALLAHAN, J.
We concur: Scotland, P.J.
 Raye, J.
- C034535 THE PEOPLE v. BILBO, III (Not for Publication)**
The judgment is modified to reflect the imposition of an additional \$50 criminal laboratory analysis fee (Health & Saf. Code, § 11372.5) and a \$50 state penalty assessment (Pen. Code, § 1464) and a \$35 county penalty assessment (Gov. Code, § 76000) upon each laboratory fee, for a total of \$100 in state penalty assessments and \$70 in county penalty assessments applicable to such fee. The judgment is further modified to reflect imposition, upon the drug program fee (Health & Saf. Code, § 11372.7), of a state penalty assessment of \$150 and a county penalty assessment of \$105. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy of the amended abstract to the Department of Corrections. As modified, the judgment is affirmed.
SIMS, Acting P.J.
We concur: Hull, J.
 Kolkey, J.
- C031358 THE PEOPLE v. MALIK (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Scotland, P.J.
 Kolkey, J.
- C032038 THE PEOPLE v. ANGEL (Not for Publication)**
The judgment is affirmed.
MORRISON, J.
We concur: Blease, Acting P.J.
 Kolkey, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 23, 2000

At 9:30 a.m., the court met in the Library and Courts Building for a continuation of its court calendar session. Present: Sims, Acting Presiding Justice; Davis, Associate Justice; Hull, Associate Justice; and Rios, Bailiff. Calendar called.

C032705 DOUGHERTY et al. v. BLATT et al.

Cause called. Steven A. Malcoun argued for appellants. William H. Parish argued for respondents. Arthur A. Small II appeared for respondents but did not argue. Cause submitted.

At 9:55 a.m., court recessed. At 10:00 a.m., court reconvened with Acting Presiding Justice Davis, Associate Justice Hull, and Associate Justice Kolkey.

**C031294 INTERNATIONAL UNION OF OPERATING ENGINEERS ETC. v.
CALIFORNIA DEPARTMENT OF TRANSPORTATION**

Cause called. Christopher E. Thomas argued for appellant. Philip C. Monrad argued for respondent. Cause submitted.

At 10:37 a.m., court recessed. At 10:41 a.m., court reconvened with Acting Presiding Justice Davis, Associate Justice Morrison, and Associate Justice Kolkey.

C032955 YORN et al. v. CITY OF STOCKTON

Cause called. Christopher Granville-Matthews argued for appellants. Dennis P. Wilson appeared for appellants but did not argue. Richard W. Taylor, Deputy City Attorney, argued for respondent. Cause submitted.

At 11:10 a.m., court recessed. At 2:00 p.m., court reconvened with Acting Presiding Justice Sims, Associate Justice Raye, and Associate Justice Morrison.

C028706 INTERNATIONAL BILLING SERVICES INC. v. EMIGH et al.

Cause called. Norman C. Hile argued for appellant. Margaret C. Toledo appeared for appellant but did not argue. Ned M. Gelhaar argued for respondents. Cause submitted.

At 2:45 p.m., court recessed until Friday, August 25, 2000, at 9:30 a.m.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 23, 2000 Continued

- C025631 CITY OF EL MONTE et al. v. COMMISSION ON STATE MANDATES;
STATE DEPARTMENT OF FINANCE (Certified for Publication)**
The opinion in the above entitled matter filed July 27, 2000, was not
certified for publication in the Official Reports. For good cause it now
appears that the opinion should be published in the Official Reports and it
is so ordered.
 SCOTLAND, P.J.
 Davis, J.
 Morrison, J.
- C032476 THE PEOPLE v. SHELTON (Not for Publication)**
The judgment is affirmed.
 MORRISON, J.
We concur: Sims, Acting P.J.
 Davis, J.
- C033945 THE PEOPLE v. DILL (Not for Publication)**
The judgment is affirmed.
 SCOTLAND, P.J.
We concur: Raye, J.
 Callahan, J.
- C033833 THE PEOPLE v. WEBB (Not for Publication)**
The judgment is affirmed.
 SIMS, Acting P.J.
We concur: Callahan, J.
 Kolkey, J.
- C025605 THE PEOPLE v. PICKETT (Not for Publication)**
The judgment of conviction is affirmed. The sentence is vacated and the
matter is remanded to the trial court for the purpose of allowing the court
to consider in its discretion whether to sentence defendant pursuant to
sections 1170 and 1170.1. If the court so elects, it shall resentence
defendant. If the court declines to do so, it shall reinstate the sentence
previously imposed.
 BLEASE, Acting P.J.
We concur: Nicholson, J.
 Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 23, 2000 Continued

C033031 THE PEOPLE v. VANDERGRIFF (Not for Publication)

The judgment (order of commitment) is affirmed.

MORRISON, J.

I concur: Kolkey, J.

I concur in the result:

Blease, Acting P.J.

C033961 THE PEOPLE v. VOORHEES (Not for Publication)

The judgment is modified to reflect the imposition of a \$50 criminal laboratory analysis fee (Health & Saf. Code, § 11372.5), a \$50 state penalty assessment (Pen. Code, § 1464) and a \$35 county penalty assessment (Gov. Code, § 76000) upon the fee. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting these modifications, correcting the total term to three years and eight months, and adding the registration order (Health & Saf. Code, § 11590). The trial court further is directed to forward a certified copy of the amended abstract to the Department of Corrections.

SCOTLAND, P.J.

We concur: Davis, J.

Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 24, 2000

- C032263 MORALES-CHAVEZ et al. v. DEL WEBB CALIFORNIA CORP. et al.**
Appellant's petition for rehearing is denied.
DAVIS, Acting P.J.
- C033622 THE PEOPLE v. CURIEL (Not for Publication)**
The judgment is affirmed.
DAVIS, J.
We concur: Hull, Acting P.J.
 Blease, J.
- C035872 In re LATIA K.; DEPARTMENT OF HEALTH AND HUMAN SERVICES
v. SHARON A.**
Respondent's motion to dismiss the appeal is granted. The appeal filed
June 6, 2000, is dismissed. (Cf. *In re Joshua S.* (1986) 186 Cal.App.3d
147, 154.)
 SCOTLAND, P.J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 25, 2000

At 9:30 a.m., the court met in the Library and Courts Building for a continuation of its court calendar session. Present: Sims, Acting Presiding Justice; Nicholson, Associate Justice; Morrison, Associate Justice; and Castillo, Bailiff. Calendar called.

C030032 FITZGERALD et al. v. BONNEAU as Trustee, etc.; ESTATE OF ALBERTA HALE
Cause called. Douglas A. Haydel argued for appellants. Kevin D. Rodman argued for x-complainant respondent. No appearance was made on behalf of respondent. Cause submitted. (Consolidated with C031362).

C031362 BONNEAU, as Executor and Trustee, etc. v. FITZGERALD as Executor, etc.
Cause called. Douglas A. Haydel argued for respondents. Kevin D. Rodman argued for appellant. Cause submitted. (Consolidated with C030032).

At 9:39 a.m., court recessed until Monday, August 28, 2000, at 9:30 a.m.

C032299 THE PEOPLE v. FORBES, JR. (Not for Publication)
The opinion filed August 15, 2000, in the above matter is hereby modified by deleting footnote 8 on page 12. There is no change in the judgment.
 SCOTLAND, P.J.
 Sims, J.
 Raye, J.

C032124 THE PEOPLE v. HARPER (Certified for Partial Publication)
The opinion in the above matter, filed August 15, 2000, is modified in the following respects:
...
These modifications do not change the judgment.
 SIMS, Acting P.J.
 Morrison, J.
 Callahan, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

The Minutes

August 25, 2000 Continued

C034872

THE PEOPLE v. GEOTTMAN

(Not for Publication)

The trial court is directed to prepare a corrected abstract of judgment to reflect the following: a \$2,200 restitution fine (§ 1202.4), a \$2,200 parole fine, suspended pending successful completion of parole (§ 1202.45), a \$200 sex offender program fine (§ 290.3), \$161 main jail booking fee and \$33 main jail classification fee, \$352 in victim restitution and further victim restitution for the victims' counseling to the Victims of Violent Crime Program to be determined, AIDS testing (§ 1202.1), blood and saliva testing (§ 296.1) and no visitation with the victims (§ 1202.05). The trial court shall forward a certified copy of the corrected abstract of judgment to the Department of Corrections. The judgment is affirmed.

BLEASE, Acting P.J.

We concur: Raye, J.
Morrison, J.

C029236

FRIENDS OF DAVIS v. CITY OF DAVIS; FULCRUM DAVIS

(Not for Publication)

The judgment is affirmed.

SCOTLAND, P.J.

We concur: Sims, J.
Callahan, J.